



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/195,270	11/18/1998	KATSUHIRO OCHIAI	P/2054-95	4140

7590 10/24/2002

STEVEN I WEISBURD ESQ
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS - 41ST FLOOR
NEW YORK, NY 10036

EXAMINER

SALCE, JASON P

ART UNIT PAPER NUMBER

2611

DATE MAILED: 10/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/195,270

Applicant(s)

OCHIAI ET AL.

Examiner

Jason P Salce

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 2-6,8-10 and 15 is/are rejected.
- 7) ☒ Claim(s) 7 and 11-14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☒ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 2-6, 8-10, and 15 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 2-4, 6, 8-9, and 15 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Mankovitz et al. (U.S. Patent No. 6,341,195).

Referring to claim 15, Mankovitz discloses a broadcast resource receiver receiving at least a first broadcast stream (see television 14 in Figure 1), where the broadcast resource receiver is responsive to a unified notation (Column 8, Lines 2-6). Mankovitz also discloses that the unified notation identifies a first broadcast stream and a second broadcast stream (see "channel" and "signal source" parameter of the unified

notation taught at Column 8, Lines 2-6). Nowhere does the unified notation taught at Column 8, Lines 2-6 define a capture route, capture time, and inherent name, therefore, the unified notation is "independent" of these parameters.

Mankovitz also discloses a communication resource receiver receiving at least a second broadcast stream, and is responsive to the unified notation (see recorder 742 in Figure 1 and Column 8, Lines 2-6).

Mankovitz also discloses a reception route selection apparatus being responsive to the unified notation (Column 3, Lines 8-18 and Column 8, Lines 2-19), the reception route selection apparatus selecting either the broadcast resource receiver or the communication resource receiver (see Figure 1 and Column 3, Lines 8-18) for receiving one of the broadcast streams based on a broadcast time (see "start time" at Column 8, Lines 2-6).

Referring to claim 2, Mankovitz teaches a start time, end time and broadcast code at Column 8, Lines 2-6.

Referring to claims 3 and 4, Mankovitz teaches that the signal source can be over the air (radio) or a television broadcast (see Figure 1).

Referring to claim 6, Mankovitz teaches route selection for capturing a broadcast stream dependent upon a broadcast time (see Figure 1, Column 3, Lines 8-18, and Column 8, Lines 2-6).

Referring to claims 8-9, see rejection of claims 3-4, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz et al. in view of Williams et al. (U.S. Patent No. 6,157,411).

Referring to claim 5, Mankovitz teaches all the limitations in claim 15, but fails to teach that a broadcast stream can comprise an Internet broadcast program. Williams teaches storing data from multiple sources into a unified format, and that one of the sources can provide Internet broadcast streams (Column 5, Lines 62-67 and Column 6, Lines 1-5 and Column 7, Lines 21-28 and element 231 in Figure 2). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the unified data format, as taught by Mankovitz, using the URL trait data that comprises a unified data format, as taught by Williams, for the purpose of allowing a user to access additional online data (Column 4, Lines 16-20 of Williams).

Allowable Subject Matter

3. Claims 7, 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Referring to claims 7, the prior art of record fails to teach a broadcast stream having a past, present and future zone for requesting missed portions of a broadcast.

Referring to claim 11, the prior art of record fails to teach requesting the missing piece of a broadcast.

4. Claim 16 is allowed.

The following is an examiner's statement of reasons for allowance:

Referring to claims 7, the prior art of record fails to anticipate or rendered obvious a broadcast stream having a past, present and future zone for requesting missed portions of a broadcast.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Byrne et al. (U.S. Patent No. 5,990,883) discloses a unified presentation of programming and a receiver for receiving multiple broadcast streams from multiple sources.

Klosterman (U.S. Patent No. 6,072,983) discloses merging programming information from multiple sources.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2611

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-9048.



ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

October 16, 2002